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ROBERT GRAY
CONLEY, ROSE & TAYON, P.C.
P.O. Box 3267
Houston, TX 77253-3267

EXAMINER

CHARLES, DEBRA F

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/769,036
Filing Date: January 24, 2001
Appellant(s): CALO ET AL.

Nick Patel
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 3/29/2006 appealing from the Office action mailed 9/22/2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

The summary of claimed subject matter contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

| | |
|--------------|-------------|
| 5424938 | Wagner |
| 6029146 | Hawkins |
| 2003/0208440 | Harada |
| 4677552A | Sibley, Jr. |

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 31, 34,38, 39, 40, and 41 are rejected under 35 U.S.C. 102(b) as being anticipated by Sibley, Jr. (U.S.PAT. 4677552A).

Re claims 31, 39 and 40: Sibley, Jr. disclose a computerized system for trading securities and commodities(Abstract, claim 1, Figs. 1-10, cols. 1-2 and col. 3, lines 1-35, col. 5,line 45-col. 6, line 25), comprising:

a first computerized introducing affiliate in a first country suitable for accepting a transaction order from a customer, and transmitting said transaction order electronically(col. 1, line 45-col. 2, line 15),

said transaction order being for the handling of a security or commodity(Abstract, i.e. bids and offers are transaction orders);

a second computerized introducing affiliate in a second country(col. 1, line 45-col. 2, line 15);

an exchange on which said security or commodity is traded(col. 1, line 60-67, i.e. central exchange host);

a global hub connected between said first introducing affiliate and said second introducing affiliate, said global hub for electronically routing said transaction order from said introducing affiliate to said exchange(col. 2, line 15-55).

Re claim 38: Sibley, Jr. disclose comprising a computerized executing affiliate in a second country suitable for electronically receiving said transaction order, said global hub connected between said first introducing affiliate and said executing affiliate, said global hub suitable to route electronically said transaction order to said executing affiliate(col. 1, line 45-col. 2, line 55).

Re claim 34: Sibley, Jr. disclose comprising a second introducing affiliate in a second country, said second introducing affiliate being suitable for accepting a transaction order from a second customer, and transmitting said transaction order electronically(Abstract, i.e. plurality of user computer terminals are capable of accepting transaction orders for bids and offers).

Re claim 41: Sibley, Jr. disclose said second computerized system connects to said plurality of stock exchanges in a hub and spoke configuration(Fig. 1).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3, 4,5, 6,7, 9, 11,13, 26, 29,42 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner et al.(US5424938A) and Hawkins et al.(U. S. PAT. 6029146A).

Re claims 3, 4, 6 ,7, 9, 11,13, 26, 29, 42 and 43: Wagner et al. disclose(s) a computerized system for trading securities and commodities with a computerized introducing affiliate in a first country suitable for accepting a transaction order from a customer and transmitting said transaction order electronically, said transaction order being for the handling of a security or

commodity; an exchange on which said security or commodity is traded; a computerized executing affiliate in a second country suitable for electronically receiving said transaction order and executing said transaction order on the exchange; and a global hub between said introducing affiliate and said executing affiliate, wherein said global hub electronically routes said transaction order from said introducing affiliate to said executing affiliate; (Abstract, col. 2, line 20-col. 3, line 67, Figs. 1-12, claims 1,2,16),

Wagner et al. disclose the invention except wherein said transaction order is to sell an equity, and said executing affiliate electronically transmits proceeds from said sale of said equity to said global hub.

However, in col. 6, lines 15-45, col. 13, lines 45-col. 14, line 55, col. 15, lines 30-45, col. 18, lines 55-60 thereof, Hawkins et al. disclose(s) buy and sell orders, that exclude customer account information, and payments for those orders via wire, the payments and netting of those payments is the proceeds of the sale; wherein said first computerized system maintains a customer account in a first currency and said security or commodity trades

on a stock exchange in a second currency, and wherein said second computerized system converts said first currency to said second currency to purchase said security or commodity. Further, Hawkins et al. disclose executing the trade in a different currency from the original initiating broker country currency. It would be obvious to one of ordinary skill in the art to modify the invention of Wagner et al. based on the teachings of Hawkins et al. The motivation to combine these references is to efficiently and effectively match an investor's equity order with an executing broker's match confirmation, but will be compatible with existing financial network standards.

7. Claims 8, 12 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner et al. and Hawkins et al. as applied to claims 7 and 11 above, and further in view of Harada et al.

Re claims 8, 12 and 30: Sibley, Jr. and Hawkins et al. disclose(s) the claimed invention except said first affiliate maintains an account for said customer in a first currency and prior to transmitting said currency to said executing affiliate, a check is made of said account to ensure said account

holds an amount greater than said amount of said purchase of said equity.
And global hub is connected to a foreign exchange rate information source and a foreign exchange rate bank, said global hub sending said first currency to said foreign exchange rate bank and receiving in return said second currency.

However, in the Abstract, para. 0051, 0078, claim 11 thereof, Harada et al. disclose checking the account to ensure there is sufficient funds before executing a transaction, and dynamically determining the currency exchange rate via an outside information source. It would be obvious to one of ordinary skill in the art to modify the invention of Sibley, Jr. and Hawkins et al. based on the teachings of Harada et al. The motivation to combine these references is to efficiently and effectively ensure sufficient funds availability before proceeding with the transaction.

8. Claims 21-22 and 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hawkins et al. and Harada et al.

Re claim 21: Hawkins et al. disclose a method of buying a security or commodity(Abstract, col. 15, lines 30-45, Fig. 7,16, 17), comprising the acts of:

accepting an electronic transaction order from a first customer in a first country to purchase a stock for a first amount, said stock being available on a first financial exchange(Fig.4, item 101, 7, item 122, 16, item 430, 17, 22, 23, col. 4, lines 45-65, i.e. executing broker receives the order);
purchasing said stock on said first financial exchange(Fig. 14, item 840),
electronically transmitting proceeds from said sale of said stock from said first financial exchange to said customer account (col. 13, lines 45-col. 14, line 55, col. 15, lines 30-45, col. 18, lines 55-60, i.e. wire is the payment transmission method).

Hawkins et al. disclose(s) the claimed invention except checking an account balance in a customer account for said first customer to determine if said customer account balance is at least equal to said first amount;
electronically transmitting said transaction order to the first financial exchange via a global hub where said customer account balance is at least said first amount, said global hub being electronically connected to at least

a second financial exchange and said first financial exchange; deleting a second amount from said customer account via the global hub. And said second amount correlates to said first amount. However, in the Abstract, para. 0051, 0078, claim 11, Fig. 1, item 114 thereof, Harada et al. disclose checking the account to ensure there is sufficient funds before executing a transaction, and dynamically determining the currency exchange rate via an outside information source. Further, Harada et al. disclose debiting the customer's account for an amount in the second currency and executing the trade in a different currency from the original initiating broker country currency. It would be obvious to one of ordinary skill in the art to modify the invention of Hawkins et al. based on the teachings of Harada et al. The motivation to combine these references is to efficiently and effectively ensure sufficient funds availability before proceeding with the transaction in a different currency from the one in the customer's home country.

Re claim 22: Hawkins et al. disclose said first financial exchange is in a second country(Fig. 4).

Re claim 24: Hawkins et al. disclose said step of selling said stock includes said global hub electronically transmitting said transaction order to an executing affiliate that sells said stock on first exchange(col. 8, lines 10-31).

Re claim 25: Hawkins et al. disclose said executing affiliate is in a second country(col. 8, lines 10-31).

9. Claims 35, 36 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hawkins et al.

Re claims 35, 36 and 37: Hawkins et al. disclose transaction order is associated with a customer account upon generation of said transaction order, said customer account being adjusted by an amount at least equal to said price for said purchase. And the amount of said adjusted is based on a price for said security or commodity, and an exchange rate between a first currency and a second currency. And method includes an executing broker that executes said transaction order, said executing broker also being suitable to act as an introducing broker for the generation of a

transaction order(Fig. 3,4,7, 13, item 608, col. 6, lines 25-45, col. 14, lines 10-55, col. 18, lines 55-60, col. 20, lines 60-col. 21, lines 5).

Hawkins et al. does not explicitly disclose encumbrance. However, wire instructions in the finance art effectively put a hold on the amount in the customer's account to be transferred via wire. Thus, it would have been obvious to one with an ordinary level of skill in the art to employ an encumbrance technique to get the benefit of reserving funds in the customer's account to cover the amount of the transaction until the customer funds have been transferred.

(10) Response to Argument

The Sibley, Jr. patent as explained above answers the attorney's objection. This was sent to the attorney in the final rejection sent out 9/22/2005.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Debra Charles



Conferees:

Vincent Millin

VINCENT MILLIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

Alexander Kalinowski

